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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 000288

SIPDIS

DEPARTMENT ALSO FOR EUR/SE

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TAGS: [PGOV](#) [TU](#)

SUBJECT: PROSECUTOR'S ARREST REIGNITES BITTER CLASH BETWEEN
AKP AND JUDICIARY

REF: A. 09 ANKARA 834

[1](#)B. 09 ANKARA 721

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Classified By: POL Counselor Daniel O'Grady, for reasons 1.4(b,d)

[1](#)1. (C) SUMMARY: The long-simmering power struggle between the ruling Justice and Development Party (AKP) and Turkey's secularist judiciary escalated sharply last week after the arrest of a provincial prosecutor in Erzincan who was investigating the activities of a religious group. The High Council of Judges and Prosecutors (HSYK) stepped in to defend the Erzincan prosecutor, but not before his file had been transferred to the main Ergenekon prosecutor in Istanbul. He remains in detention. The Justice Minister has denounced the HSYK's intervention. The flare-up has dominated television news programs, and newspaper front pages, for four days -- although the wave of high-level military detentions February 22 eclipsed that issue and upped the ante considerably in the secularist versus AKP schism. Embassy contacts have warned us of a prevailing mood of fear in Turkey that discourages any probes or legal actions against religious sects. The Erzincan prosecutor appears to have fallen afoul of those parameters. Meanwhile, the Court of Appeals Chief Prosecutor, who prosecuted the 2008 AKP closure case, has announced he is considering a new case based on the Erzincan developments as well as the GOT's orchestrated assignment of certain judges and prosecutors to greet Kurdish returnees from Northern Iraq in 2009. A new closure case against AKP would almost certainly backfire against the party's hardline secularist critics, but remains a possibility. In the event a new closure case is opened, AKP has already forecast early elections and expects a significant electoral boost. END SUMMARY.

[1](#)2. (U) On February 17 Erzincan Provincial Chief Public Prosecutor Ilhan Cihaner was arrested by Erzurum Provincial Special Public Prosecutor Osman Sanal and charged with being a member of the Ergenekon terrorist organization. On February 18 the High Council of Judges and Prosecutors (HSYK) which determines judicial appointments in Turkey, decided that Sanal had exceeded his authority in arresting Cihaner, and suspended him from duty along with four prosecutors on his team. The Court of Appeals and the Danistay issued a statement saying that the decision of the HSYK was in compliance with the law and within its authority. But Cihaner's file had already been transferred to the main Ergenekon prosecutor in Istanbul, and Cihaner remains in detention.

[1](#)3. (U) The GOT moved quickly to denounce the HSYK's intervention. Justice Minister Ergin stated that the HSYK

had exceeded its authority by removing Sanal. Deputy Prime Minister Bulent Arinc contended to reporters that Cihaner had been arrested for committing common crimes unrelated to his investigations. He criticized the HSYK for meddling in politics.

¶4. (U) Meanwhile, Court of Appeals Chief Prosecutor Abdurrahman Cetinkaya, who formerly prosecuted the closure case against the AKP in March 2008, issued a separate written statement February 17, calling for an investigation into the Erzincan developments, to determine if the government was deliberately politicizing the judicial process. Cetinkaya said he also wants to probe the special arrangements made for judges and prosecutors who met the PKK returnees from Northern Iraq in October 2009.

¶5. (SBU) Various contacts speculate that the "Ergenekon" investigation against Cihaner was in response to his own investigation, beginning in 2007, into the activities of the Ismailaga religious brotherhood. Cihaner claims that in mid-2008, then-Justice Minister Cemil Cicek had personally telephoned him to insist that the investigation cease. Cicek denies it. In March 2009, Sanal requested the Ismailaga case be transferred to himself, claiming it fell under his jurisdiction as a Special Prosecutor investigating violent crimes involving weapons. Sanal claimed that Cihaner was investigating the Ismailaga brotherhood under instructions from the Ergenekon criminal organization. Citing a now public document allegedly signed by Col. Dursun Cicek, Sanal claimed that Ergenekon members were attempting to link the Ismailaga and other brotherhoods to violent acts and illegal weapons caches in order to smear their reputations and eventually establish justification for bringing their members before military courts.

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¶6. (C) Rumors abound that allegations of politicization of the judiciary will be the cornerstone of a new closure case against the AKP. Television crews are camped out in front of the Yargitay offices (conveniently across the street from the Embassy) apparently awaiting such an announcement. Murat Yektkin, a regular columnist for the daily Radikal newspaper, wrote that a high-level AKP official told him, "if a closure case is opened against the AKP we will immediately go to an early election." AKP Deputy Secretary General Safi told us last week that both the Erzincan and Erzurum prosecutors may have exceeded their authority, but that HSYK itself is aligned with opposition CHP leader Deniz Baykal. Safi noted that another closure case may result "because everyone knows the judiciary is eager to open a case even if it's bad for the country." ButqnOQ@{S&elentless advance. It is also, according to our contacts, a far more formidable opponent for the AKP than, say, the Turkish military, because the judiciary can claim the mantle of "the law" -- even though all Turkish laws are subject to widely varying and often political interpretations. The AKP's fixation on the Ergenekon organization -- whether the organization is real or fictitious -- has turned into a double-edged political sword and may start to damage the AKP's own interests. We sense a growing public fatigue at the endless stream of Ergenekon plots leaked to the press and a deepening skepticism about the ever-broadening arrests and detentions. The detention of Prosecutor Cihaner will add to this skepticism, and will also underscore the perception that probes or legal actions against religious sects entails a high price.
Jeffrey

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